

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LARRY GIRALDES, JR.,

NO. CIV. S-01-2110 LKK/PAN (JFM)

Plaintiff,

v.

O R D E R

PREBULA, et al.,

Defendants.

Plaintiff filed his second amended complaint seeking relief under 42 U.S.C. § 1983. Plaintiff alleges that defendants were deliberately indifferent to his serious medical needs and inappropriately authorized his medical transfer from California Medical Facility ("CMF") to High Desert State Prison ("HDSP"). On January 24, 2006, the magistrate judge issued findings and recommendations recommending this court deny plaintiff's preliminary injunction and grant defendant's motion for summary judgment.

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1 The magistrate judge's findings states that "[t]here is no
2 evidence that implicates [defendants] in any wrongdoing."
3 Plaintiff, however, asserts that defendants knew he would not
4 receive adequate care for Hepatitis-C at HDSP, and indeed, it
5 appears the record raises several disputed material facts. First,
6 a physician at HDSP initially questioned whether plaintiff's
7 medical needs could be satisfied at HDSP. Further, plaintiff
8 states in his objections that he has previously pointed out to the
9 court that defendants drafted fraudulent documents and were
10 complicit in transferring him to a facility that could not provide
11 him adequate medical care. From what the court can tell, disputed
12 facts exist warranting closer scrutiny of the parties' evidence and
13 the motions pending before the court.

14 For the reasons set forth above, the court DECLINES to adopt
15 the magistrate judge's January 24, 2006 findings and
16 recommendations and REMANDS the case to the magistrate judge for
17 further proceedings consistent with this order.

18 IT IS SO ORDERED.

19 DATED: March 24, 2006.

20
21 /s/Lawrence K. Karlton
22 LAWRENCE K. KARLTON
23 SENIOR JUDGE
24 UNITED STATES DISTRICT COURT
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